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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,492	01/12/2004	William J. Deakin	25040-0951	1982
29952 7590 02/11/2008 SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309				
EXAMINER				
GART, MATTHEW S				
ART UNIT		PAPER NUMBER		
3625				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/755,492

**Applicant(s)**

DEAKIN ET AL.

**Examiner**

Matthew S. Gart

**Art Unit**

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 13-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## **DETAILED ACTION**

### ***Prosecution History Summary***

- Claims 1-41 are pending in the instant application.
- Claims 13-41 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.
- Claims 1-12 are rejected as set forth below.

### ***Response to Amendment***

The rejections of claims 1-12 under 35 U.S.C. 112 is withdrawn in view of the claim amendment submitted on 12/10/2007.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abell (Patent Application Publication 2003/0172028) in view of Walker (Patent Application Publication 2005/0060062).**

Referring to claim 1. Abell discloses a product container, comprising:

a network interface, wherein said network interface facilitates communication of the product container with a network (Abell: Fig. 2, "Background Network 205"); and

a wireless access point, which provides a wireless communication via the network for at least one device associated with the customer, wherein the wireless access point requests either validation of the consumer or payment information when the at least one device is determined to be within a vicinity of the wireless point (Abell: paragraph 0035 and paragraph 0036),

wherein the product container is operable to dispense the product selected by the consumer (Abell: paragraph 0035 and paragraph 0036).

Walker discloses a product container, comprising:

at least one display comprising selectable items for a consumer to identify via the display a physically tangible product for purchase (Walker: paragraphs 0072 through 0079); and

at least one sensor operable to detect the consumer's presence in proximity to the product container, wherein the at least one display is operable to output content based at least in part on the consumer's presence (Walker: paragraph 0065).

The Examiner notes, all the elements set forth in claim 1 were known to one of ordinary skill in the art at the time of invention. Furthermore, the technical ability existed at the time of invention to have combined the elements as claimed and the results of the combination are predictable.

Referring to claim 2. Abell further discloses a product container wherein the network is the Internet (Abell: paragraph 0031).

Referring to claims 3-4. Abell in view of Walker discloses a product container as set forth in claim 1 above. Abell does not expressly disclose a product container comprising consumer-packaged goods (i.e. soft drinks). Walker in Fig.1 discloses a product container comprising consumer-packaged goods (i.e. soft drinks).

The Examiner notes, all the elements set forth in claims 3-4 were known to one of ordinary skill in the art at the time of invention. Furthermore, the technical ability existed at the time of invention to have combined the elements as claimed and the results of the combination are predictable.

Referring to claim 5. Abell further discloses a product container wherein the container is operable to communicate with a content server via the network interface (Abell: Fig. 2, "07").

Referring to claim 6. Abell further discloses a product container wherein the container is operable to receive information from the consumer, and wherein the container is further operable to upload the information received from the consumer to the content server (Abell: paragraph 0035 and paragraph 0036).

Referring to claim 7. Abell further discloses a product container comprising an output device, wherein said output device is operable to display content transmitted to said container from said content server (Abell: Fig. 6, "611").

Referring to claim 10. Abell further discloses a product container wherein the container is selected from the group of containers consisting of a fountain machine and a vending machine (Abell: Fig. 2, "Terminal 209").

Referring to claim 11. Abell further discloses a product container comprising at least one sensor, wherein the at least one sensor is operable to identify the presence of a person near the product container (Abell: paragraph 0035 and paragraph 0036).

Referring to claim 12. Abell further discloses a product container wherein the at least one sensor is selected from the group of sensors consisting of a motion sensor, a microphone, a light sensor, and a radio-frequency sensor (Abell: paragraph 0035 and paragraph 0036).

**Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abell (Patent Application Publication 2003/0172028) in view of Walker (Patent Application Publication 2005/0060062) and further in view of Pons (Patent Application Publication 2002/0099608).**

Referring to claims 8-9. Abell in view of Walker discloses a product container as set forth in claim 1 above. Abell in view of Walker does not expressly disclose a product container comprising an output device, wherein said output device is operable to print receipts comprising a reward indicator. Pons discloses a product container comprising an output device, wherein said output device is operable to print receipts comprising a reward indicator (Pons: paragraph 0029).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the product container of Abell in view of Walker to have included the teachings of Pons in order to increase advertisement efforts (Pons: paragraph 0029).



***Response to Arguments***

Applicant's arguments filed 12/10/2007 have been fully considered but they are moot in view of the new grounds of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/

Primary Examiner, Art Unit 3625